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Letter Ruling 80-67: Pharmaceutical Items

October 7, 1980

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You inquire whether sales tax applies to the sales in Massachusetts of the following pharmaceutical items:

(1) intravenous solutions in plastic or glass containers, made up of water, carbohydrates, electrolytes, vitamins and amino acids, in various combinations;

(2) plastic intravenous administration sets and accessories, including tubing, entry spikes, and flow control devices;

(3) solutions in plastic or glass containers, made up of water, sugars and other carbohydrates, alcohols, salts and minerals, in various combinations, generally used for irrigation (these solutions are not administered intravenously); and

(4) glass and plastic containers used for withdrawal and storage of blood or plasma prior to its transfusion.

The solutions listed in (1) and (3) above are available only by prescription.

It is assumed for purposes of this ruling that none of the items is to be sold for resale in the regular course of business or sold to an exempt purchaser.

Massachusetts General Laws Chapter 64H, Section 6(1) exempts from tax sales of medicine on prescriptions of registered physicians and sales of blood or blood plasma. Section 6(z) of Chapter 64H exempts sales of ". . . solutions purchased by a person who has undergone a colostomy or an ileostomy and which are used entirely as the result of such operation." Under Section 6(q)(1) of Chapter 64H, sales of nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container are exempt from the sales tax.

Based on the foregoing, it is ruled that:

(1) sales of the intravenous solutions listed in (1) above are exempt from tax;

(2) sales of the administration sets and accessories listed in (2) above are taxable;

(3) sales of the irrigating solutions described in (3) above are subject to tax unless the solutions are sold to a person who has had a colostomy or ileostomy and are used entirely as the result of such an operation; and

(4) sales of the blood and plasma containers described in (4) above are subject to tax unless the items are sold to persons who withdraw blood or plasma into them and sell the blood or plasma to others.

Very truly yours,

/s/L. Joyce Hampers

L. Joyce Hampers
Commissioner of Revenue

LR 80-67